



The State Bar of California

AGENDA ITEM

NOVEMBER 10 – Thursday, September 19, 2019, Open Session Minutes

Open Session Minutes
Regular Meeting of the Board of Trustees

State Bar of California
845 South Figueroa Street
Boardroom, 2nd Floor
Los Angeles, California

Thursday, September 19, 2019
3:30 p.m.

Time meeting commenced: 4:15 p.m. (Meeting commenced in Open Session, went immediately into Closed Session, and reconvened in Open Session immediately thereafter at 5:20 p.m.)

Time meeting adjourned: 6:31 p.m.

Chair: Jason Lee

Secretary: Sarah Cohen

Members present: Hailyn Chen, Juan De La Cruz, Ruben Duran, Renée LaBran, Debbie Manning, Joanna Mendoza, Joshua Perttula, Sean SeLegue, Brandon Stallings, Alan Steinbrecher

Members joined in progress: n/a

Members absent: Mark Broughton, Sonia Delen

Public Comment: n/a

Note: Miscellaneous Item #702 taken out of order at the beginning of open session to accommodate the guest presenters. See below for action taken by Board.

10 Minutes

July 11, 2019 - Open Session Minutes – Adopted by unanimous consent

30 Chair's Report

Oral report deferred until the end of the meeting

40 Staff Reports

41 Executive Director

1. Report from Executive Director –

Informational Only – no action

50 Consent Agenda - Collectively Deemed Approved by Unanimous Consent

Consent Item #50-1, Appreciation to Outgoing Chair and Members, was pulled from consent for public recognition and heard at the end of the consent calendar.

50-1 Appreciation to Outgoing Chair and Members

It is recommended that the Board of Trustees adopt the following resolution of appreciation to the outgoing Chair and Board member:

WHEREAS, Jason Lee, Chair, and Joanna Mendoza have served this Board and the State Bar of California with devotion and distinction; and

WHEREAS, it is appropriate that the minutes of this meeting officially record the warm gratitude and respect, both personal and professional, of their fellow Board members.

RESOLVED, that the Board of Trustees hereby expresses to Jason Lee, Chair, and Joanna Mendoza, member of the Board of Trustees, its sincere appreciation for their admirable accomplishments and selfless efforts expended on behalf of the State Bar, and also expresses to them the high esteem and personal affection of their fellow members of the Board.

Pulled from Consent and Motion Passed by Substitution of the Roll

50-2 Approval of Specified Contracts Pursuant to Business and Professions Code Section 6008.6

- 1. For Los Angeles office Security Services, with: Allied Universal**
- 2. For San Francisco office Property and Construction Management, with: Cushman & Wakefield**
- 3. For San Francisco office Leasing Brokerage Services, with: Cushman & Wakefield**
- 4. For Interim IT Director Services, with: Eduardo Frias**

5. For IBM PureFlex Server, with: CMI

6. For Los Angeles office reconfiguration, with: The Sheridan Group

7. For Los Angeles office reconfiguration, with: Driver SPG

It is recommended that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approves execution of the contracts listed herein.

50-3 Legal Services Trust Fund Commission – Annual Appointment of Officers and Reappointment of Member

It is recommended that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve the appointment of Banafsheh Akhlaghi for a one-year term as Chair and the re-appointment of Eric Isken for a one-year term as Vice-Chair of the Legal Services Trust Fund Commission commencing at the close of the September 2019 meeting of the Board of Trustees and expiring at the close of September 2020 meeting of the Board of Trustees.

FURTHER RESOLVED that the Board of Trustees approve the appointment of Christian Schreiber as an attorney member on the Legal Services Trust Fund Commission for a four year term commencing at the close of the September 2019 meeting of the Board of Trustees and expiring at the close of September 2023 meeting of the Board of Trustees.

54-121 Revisions to Rule 38.1 of State Bar of California Model Rules of Procedure for Fee Arbitrations and State Bar Rule 3.536(E) - Return from Public Comment and Request for Approval

It is recommended that the Regulation and Discipline Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees, following the publication for a 45-day public comment period and in consideration of the comment received, approve State Bar of California Model Rule of Procedure for Fee Arbitrations 38.1, as revised; and Rule 3.536(E) of the Rules of the State Bar of California, as revised, attached hereto as Attachment A.

54-122 Proposed New Rule of Procedure 2605 (Vexatious Complainants) and Amendment to Rule of Procedure 5.10 (Confidential Proceedings) - Return from Public Comment and Request for Approval

It is recommended that the Regulation and Discipline Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees hereby approve and adopt proposed State Bar Rule of Procedure 2605 and proposed amendment to State Bar Rule of Procedure 5.10, attached hereto in Attachment A.

54-131 Annual Recommendation Regarding Licensees Not in Compliance with Minimum Continuing Legal Education (MCLE) Audit

Updated 2017-2022 Strategic Plan Rev. 2: 2.c.

It is recommended that the Programs Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve, pursuant to California Rule of Court 9.31 and the Rules of the State Bar, that those attorneys in MCLE Compliance Group 1 who were audited and who do not bring themselves into compliance with their MCLE Audit requirements by November 15, 2019, as well as those attorneys who have failed to comply with their modified MCLE requirement by November 15, 2019, be enrolled as inactive and placed on “Not Eligible to Practice” status in State Bar records, effective November 16, 2019; and it is ; and it is

FURTHER RESOLVED, that the Board of Trustees hereby authorizes staff to remove an attorney from administrative inactive status once the attorney has provided proof of compliance and paid all noncompliance fees.

54-141 Q2 Financial Statement Report, Investment Report, Client Security Fund Report

It is recommended that the Finance and Planning Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve the 2019 2nd Quarter Financial Report in the form this day before the Board, for the three months ended June 30, 2019, as certified by the Chief Financial Officer, and on file with the San Francisco office of the State Bar.

54-142 Proposed 2020 Changes to Schedule of License Fees, Penalties, Charges and Deadlines

It is recommended that the Finance and Planning Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve and set, subject to SB 176 becoming law, the annual licensing fee for 2020 at \$544 for active status and at \$183 for inactive status; and it is

FURTHER RESOLVED, that, as required by Business and Professions Code section 6140.05, a \$5 deduction from annual fees be available for any attorney who elects not to fund State Bar lobbying and other legislative activity; and it is

FURTHER RESOLVED, that a \$2 deduction from annual fees be available for any attorney who elects not to fund State Bar programs that support the elimination of bias; and it is

FURTHER RESOLVED, that for the Legal Services Assistance Fee under Business and Professions Code section 6140.03, a \$40 deduction from the annual fee be provided to each attorney who elects not to have this amount allocated to support nonprofit organizations that provide free legal services to persons of limited means; and it is

FURTHER RESOLVED, that the 2020 annual fees for new attorneys admitted in 2020 be set as follows: fees of \$544 for those admitted between January 1 and May 31, 2020, and \$272 for those admitted between June 1 and November 30, 2020; and it is

FURTHER RESOLVED, that the deadlines and penalties as proposed on the attached Appendix A: Schedule of Charges and Deadlines for 2020 (Attachment A), be applied to delinquent 2020 annual fees; and it is

FURTHER RESOLVED, that the MCLE noncompliance fee remain set at \$75, the MCLE audit deficiency fee remain set at \$200, and the MCLE reinstatement fee to terminate MCLE inactive enrollment remain set at \$200; and it is

FURTHER RESOLVED, that the interest on assessed costs for reimbursement to the Client Security Fund be set at 10 percent annually calculated from the date of disbursement as set forth by the Board, pursuant to Business and Professions Code section 6140.5(c); and it is

FURTHER RESOLVED, that the administrative penalty on failure to comply with binding arbitration is charged at a fee not to exceed 20 percent of the amount ordered refunded to the client or \$1,000 whichever is greater.

54-143 Update on Debt Collection Efforts

Updated 2017-2022 Strategic Plan Rev. 2: 2.d., 3.e.

Informational Only – no action

54-181 Q2 Board and Management Travel Expenses

It is recommended that the Board's Audit Committee and Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees approve the first quarter of 2019 Board and Management Travel Expenses in the form this day before the Board, for the three months ending June 30, 2019, as certified by the Chief Financial Officer, and on file with the San Francisco office of the State Bar.

700 MISCELLANEOUS

701 Approval of Staff Recommendations Related to the American Bar Association (ABA): (1) Transfer of ABA Delegates from the State Bar to the California Lawyers Association; (2) Appointment of Alternate Delegate; (3) Letter from State Bar to ABA Expressing Disapproval of ABA's Decision to Hold 2020 Mid-Year Meeting in Texas

Updated 2017-2022 Strategic Plan Rev. 2: 1.b.

Presenter: Brady Dewar, Assistant General Counsel, Office of General Counsel

It is recommended that the Board of Trustees approve the following resolutions:

RESOLVED, that staff is directed to work with the American Bar Association, the California Lawyers Association, and other stakeholders as appropriate to effectuate the transfer of five of the State Bar's six appointments to the American Bar Association House of Delegates from the State Bar to the California Lawyers Association as soon as reasonably possible; and it is

FURTHER RESOLVED, that the Board of Trustees appoints Elizabeth Meyers to a one-year term (from today through August 4, 2020) to serve as an alternate member of the American Bar Association House of Delegates; and it is

FURTHER RESOLVED, that staff is directed to work with the Chair of the Board of Trustees to finalize and transmit a letter, in substantially the form set forth in Attachment A, to the American Bar Association expressing the State Bar's disapproval of the choice of Texas as the location for the American Bar Association's 2020 Mid-Year Meeting.

Moved by SeLegue, Seconded by Mendoza.

Motion Passed by Substitution of the Roll

702 Appendix I: Approval of Agreement for Separation of California Commission on Access to Justice from the State Bar of California

Updated 2017-2022 Strategic Plan Rev. 2: 1.c.

Presenter: Donna Hershkowitz, Chief of Programs Department

It is recommended that the Board of Trustees approve the following resolution:

RESOLVED, that the Board of Trustees thanks the California Commission on Access to Justice for its stellar work since its creation and wishes CCAJ continued success in its efforts to advocate for access to justice for all; and it is

FURTHER RESOLVED, that the Board of Trustees confirms that, effective at the close of the October 1, 2019 CCAJ meeting at the State Bar, CCAJ will be a separate, independent entity; and it is

FURTHER RESOLVED, that the Board of Trustees approves execution of the contract with CCAJ described above.

Moved by Mendoza, Seconded by Stallings.

Motion Passed by Substitution of the Roll

703 Update on the Justice Gap Study

Updated 2017-2022 Strategic Plan Rev. 2: 4.e.

Presenter: Dag MacLeod, Chief of Mission Advancement & Accountability Division
Hellen Hong, Program Director, Office of Access & Inclusion, Programs Division

Informational Only – no action

704 Update on the California Attorney Practice Analysis (CAPA) Study

Updated 2017-2022 Strategic Plan Rev. 2: 2.n.

Presenter: Mission Advancement & Accountability Division
Office of Research & Institutional Accountability
Lisa Chavez, Program Director
Ron Pi, Principal Program Analyst

Informational Only – no action

705 Update on the Task Force on Access Through Innovation of Legal Services (ATILS) Study [and Delegation of Authority to Justice Lee Smalley Edmon to Establish a Regulatory Options Working Group to Augment the Work of the ATILS Task Force] - *bracketed portion of agenda item withdrawn prior to meeting*

Updated 2017-2022 Strategic Plan Rev. 2: 4.d.

Presenter: Randall Difuntorum, Program Manager, Office of Professional Competence, Programs Division

Informational Only – no action

ADJOURNED